

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 17-5685-JFW (MRWx)**

Date: January 8, 2018

Title: Craig Schmitman -v- AT and T Mobility, LLC

---

**PRESENT:**

**HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE**

**Shannon Reilly**  
**Courtroom Deputy**

**None Present**  
**Court Reporter**

**ATTORNEYS PRESENT FOR PLAINTIFFS:**

None

**ATTORNEYS PRESENT FOR DEFENDANTS:**

None

**PROCEEDINGS (IN CHAMBERS):**

**ORDER GRANTING DEFENDANT AT&T MOBILITY,  
LLC'S MOTION TO CONFIRM AND ENFORCE AN  
ARBITRATION AWARD AND TO COMPEL  
ARBITRATION OF THE REMAINING CLAIMS [filed  
12/27/17; Docket No. 31]**

On December 27, 2017, Defendant AT&T Mobility, LLC ("Defendant") filed a Motion to Confirm and Enforce an Arbitration Award and to Compel Arbitration of the Remaining Claims ("Motion"). Plaintiff Craig Schmitman ("Plaintiff") did not file an Opposition. Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court finds that this matter is appropriate for decision without oral argument. The hearing calendared for January 22, 2018 is hereby vacated and the matter taken off calendar. After considering the moving papers, and the arguments therein, the Court rules as follows:

Pursuant to Local Rule 7-9, Plaintiff was required to file and serve his Opposition or Notice of Non-Opposition "not later than twenty-one (21) days before the date designated for the hearing of the motion." See Local Rule 7-9. Local Rule 7-12 provides that "[t]he failure to file any required document, or the failure to file it within the deadline, may be deemed consent to the granting . . . of the motion." See Local Rule 7-12. Plaintiff failed to file a timely Opposition to Defendant's Motion. Pursuant to Local Rule 7-12, the Court deems Plaintiff's failure to file an Opposition or to otherwise comply with Local Rule 7-9 as consent to the granting of Defendant's Motion.

Accordingly, Defendant's Motion is **GRANTED**. The Court confirms the January 25, 2017 arbitration award. In addition the Court **DISMISSES** Plaintiff's Telephone Consumer Protection Act claim on *res judicata* grounds, and orders the parties to arbitrate Plaintiff's emotional distress claim. The Court **STAYS** this action pending the outcome of the arbitration. The parties shall file a joint status report with the Court every 120 days regarding the status of the arbitration

proceedings, with the first joint status report due on May 8, 2018.

IT IS SO ORDERED.